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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,763	10/11/2001	Masatake Tamaru	VX012373	7574

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EXAMINER

NGUYEN, KIMNHUNG T

ART UNIT	PAPER NUMBER
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2674

DATE MAILED: 12/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/973,763

Applicant(s)

TAMARU, MASATAKE

Examiner

Kimnhung Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

This application has been examined. The claims 2-9 are pending. The examination results are as following.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 2-3 and 6-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Adachi et al. (US patent 6,643,582).

Regarding claim 2, Adachi et al. disclose in figure 4, a display device (see monitor 25) for construction machine, which comprises a memory device arranged within the construction machine (see storage device 21) that stores data concerning a construction site (see figure 1, see work site A, B, C, see column 3, lines 45-46) and a processing device retrieving the data stored in the memory device; and a data display screen (see monitor 25) arranged on the construction machine in such a manner that the data concerning the construction site and retrieved by the processing device (see controller 30) is display toward an outside of the construction machine.

Regarding claims 3 and 7, Dachi et al. disclose, wherein the data concerning the construction site comprises data in a work process chart that sets forth scheduled works to be done and work performance results (see figure 13, column 7, lines 46-51).

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Regarding claim 6, Adachi et al. disclose in figures 1 and 4, a system for construction machines adapted for a construction site where a plurality of construction machines are in operation (A, B, C, figure 1), the plurality of construction machines being connected through a communication apparatus so as to enable transmission (see transmitter 30) and reception (see receiver 35) of data among the plurality of construction machines, wherein one of the plurality of construction machines is designated as leader machine to the follower machines (see base station BC, personal computer PC and service center SF1-SFn) via the communication apparatus (see communications satellite CS, see column 3, lines 49-60); and a data display screen is provided on at least one of the construction machines in such a manner that the data concerning the construction site is displayed toward an outside of the construction machine (see service center SF stored in the data base 47, see column 6, lines 41-51).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adachi et al. (US patent 6,643,582) as applied to claims 2 and 6 in view of Sutherland (US patent 6,041,657).

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Adachi et al. disclose in figure 4, a display device (see monitor 25) for construction machine, which comprises a memory device arranged within the construction machine (see storage device 21) that stores data concerning a construction site (see figure 1, see work site A, B, C, see column 3, lines 45-46) and a processing device retrieving the data stored in the memory device as discussed above. However, Adachi et al. do not disclose a measuring instrument for measuring noise levels in the construction site is provided on each of the plurality of construction machines. Sutherland discloses an apparatus to automatically determining the total sound power emitted by a work machine or determining the level equivalent average noise generated by work implement under specified conditions (see abstract, see column 2, lines 19-25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of using an apparatus to automatically determining the total sound power emitted by a work machine as taught by Sutherland into the display system for construction machines of Adachi et al. because this would for controlling the measurement of both exterior and interior sound generated by a work machine in either a dynamic or static operating mode (see abstract).

5. Claims 5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adachi et al. (US patent 6,643,582) as applied to claims 2 and 6 above, and further in view of Murga (US patent 4,845,629).

Adachi et al. disclose in figure 4, a display device (see monitor 25) for construction machine, which comprises a memory device arranged within the construction machine (see storage device 21) that stores data concerning a construction site (see figure 1, see

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work site A, B, C, see column 3, lines 45-46) and a processing device retrieving the data stored in the memory device as discussed above. However, Adachi et al. do not disclose wherein a measuring instrument for measuring toxic substance concentrations in the construction site is provided in the machine. Murga discloses an automatic system for surveillance. The system is arranged to monitor the position of aircraft in the taxiways, and parking areas and flight lanes and in the event of an accident in the flight lane to extinguish any fires caused thereby (toxic substance, see abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of using the system is arranged to monitor the position of aircraft in the taxiways, and parking areas and flight lanes and in the event of an accident in the flight lane to extinguish any fires caused thereby (or toxic substance) as taught by Murga into the display device for construction machine of Adachi et al. because this would for detecting the position of aircraft in the taxiways and parking areas (see abstract).

Response To Arguments

6. Applicant's argument filed on 6-17-03 has been fully considered but they are not persuasive in view of new ground rejection.
7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimnhung Nguyen whose telephone number (703) 308-0425.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **RICHARD A HJERPE** can be reached on (703) 305-4709.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D. C. 20231

Or faxed to:


(703) 872-9314 (for Technology Center 2600 only).

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Hand-delivery response should be brought to: Crystal Park II, 2121 Crystal Drive,
Arlington, VA Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding
should be directed to the Technology Center 2600 Customer Service Office whose telephone
number is (703) 306-0377.

Kimnhung Nguyen
December 9, 2003



RICHARD H. HEFNER
SUPERVISOR, CUSTOMER SERVICE
TECHNOLOGY CENTER 2600